regard to all pending proceedings. This continues until they are finally disposed of. Any comment of a tendencious character, that is to say, comment which judges in advance the issues to be decided in such proceedings, may be contempt of Court. This applies to proceedings before all Courts, whether of first instance or appellate.

Naturally the gravity of the contempt varies greatly. Where there is going to be a trial by jury any comment is a very serious matter indeed. Where there is a trial by jury it is desirable that jurors should start hearing a case with minds free from prejudice and they should know nothing about a case except what they hear in Court. If they have been reading in newspapers the views of the editor and of people who have thought fit to express their views in letters to the editor it is difficult for them to separate what they hear in Court from what they have read outside. Where there is a trial before a Judge or Magistrate the matter is not so serious but it is still not to be regarded lightly. Professional training does enable lawyers to form an opinion of the effect of evidence regardless of what they know otherwise. But it is not easy and the mind may always be influenced unconsciously.

But besides what may be called the direct effect of comment of this kind, there are other effects which are also prejudicial to the administration of justice. Propaganda in favour of one side or the other may affect public opinion and excite popular prejudice. If ultimately the result of the proceedings is not in accordance with the prejudice so excited the result is likely to cause the public to lose confidence in the Courts. The English cases do not deal with this aspect of the matter for the simple reason that there have not been in modern times any instances of this sort of propaganda.

Leaving these more general observations and coming to the present cases, it should be observed that the Court is only concerned with the publications in so far as they tend to prejudice the criminal proceedings against these 48 persons. Possibly some of these publications might have been the subject of proceedings for sedition. With that aspect we are not concerned. We are not concerned with the question of whether the Police should have dispersed this assembly or whether they used excessive force in doing so. This is a matter on which comment may be made, provided of course that care is taken to separate this question from that of the charge of obstructing the Police.

Further, freedom to comment is not acquired by writing in a language other than English. It is impossible to say in advance which Magistrate will try any particular case nor does one know what may be his linguistic attainments or his taste in newspapers. In any event it is not only the effect on the tribunal that is to be considered.

I shall now deal with the cases in particular.

O.M. 21/54 — Sin Chew Jit Poh: This article deals mostly with other matters. It does appear to state that the persons charged are not guilty of that particular offence. This may be the result of confused thinking. I consider that the article comes on the wrong side of the line. I do not consider that it is necessary to inflict any penalty.

O.M. 22/54 — Singapore Tiger Standard: Here there is an article and a series of letters addressed to the editor. There is a general failure to distinguish between criticism of the Police and justification of the accused. Here it is necessary to impose a penalty. As the criminal proceedings are not of a serious nature I think that it is sufficient to impose a fine of $50 on each of the three persons summoned.

O.M. 23/54 — Chung Shing Jit Pao: I do not think that there was any contempt here and no order will be made.

O.M. 24/54 — Utusan Melayu: This article contains matters which seem to be concerned with pending charges. It contains the sentence "they (the students) battled only when they were attacked by the Police." I take a serious view of this. There will be a fine of $150.

O.M. 25/54 — Nanyang Press Ltd.: The article contains the sentence "when the students were about to give an explanation to the assembly, the anti-riot squad wielding their batons had already charged on them like thunder." That is obviously wrong. The respondents did not attempt to justify and their attitude has since been correct. I think a fine of $50 on each of the person summoned is sufficient.

O.M. 26/54 — Sin Pao Tri-Weekly: This paper was sufficiently ill advised to publish a manifesto on behalf of those concerned in the disturbance. This manifesto appeared, among other things, to exculpate those charged. This is the most serious of the cases and the order is that the persons summoned will pay a fine of $100 each.

In O.M. 23/54 Attorney-General to pay costs. In others the respondents to pay costs of Attorney-General lower scale.

Order accordingly.

Solicitors for respondents 1, 2 and 4: *Drew & Napier;* for 3rd respondents: *Allen & Gledhill;* for 5th respondents: *Tan, Rajah & Cheah;* and for 6th respondents: *Philip Hoalim & Co.*

DEPUTY PUBLIC PROSECUTOR v. F. HILTON.

[A. Cr. J. (Murray-Aynsley C.J.) June 16, 1954]

[Singapore — Magistrate's Appeal No. 64 of 1954]

Road Traffic Ordinance, 1941, s. 32(b) — "Served on" — Meaning of — Criminal Procedure Code (Cap. 21), s. 42.

The respondent in this case was a serviceman and a notice of intended prosecution of a traffic offence had been sent by registered post to an officer of the R.A.F. Police. This notice was subsequently handed to the respondent personally by a corporal of the R.A.F. Police.

The respondent objected at the preliminary hearing that such service was improper.

Held: (1) s. 42 of the Criminal Procedure Code applies only to the service of Summons and does not apply in this case; (2) the notice was properly served and the preliminary objection should have been overruled.

MAGISTRATE'S APPEAL.

A. V. Winslow (Crown Counsel) for the appellant.

K. Gould for the respondent.

Cur. Adv. Vult.

Murray-Aynsley, C.J. : — This is a short point raising the question of what is meant by the words "served on" in section 32(b) of the Road Traffic Ordinance, 1941. By this section persons prosecuted for offences under certain parts of the Ordinance have a privilege denied to other accused persons in that it is necessary to serve a summons within 14 days or within the same period, with certain exceptions, to serve or send by registered post a notice giving particulars of the offence for which the person concerned is to be prosecuted.

In the present case the person charged was a member of the armed forces and the notice was sent by registered post to an officer of the R.A.F. Police and handed to the defendant personally by a corporal of the R.A.F. Police. This seems to be the practice adopted by the Police and the authorities of the R.A.F.

Unless any special form of service is required I think that this would undoubtedly be good service. Primarily service means handing a document to the person concerned and unless the law requires that it must be served by some special person it can be done by any agent, as is usually the case in England.

The Criminal Procedure Code section 42 requires that a summons must normally be served by police officer, that is a member of the civil Police. But this is not a summons and I think section 42 has no application

I consider that the notice was properly served and that the preliminary objection should have been overruled. The case is remitted to the Court below to be heard on its merits.

Order accordingly.

Solicitors for the respondent: *Rodyk & Davidson.*

K. ABDUL GAFFOOR v. REGINA.

[A. Cr. J. (Murray-Aynsley, C.J.) March 31, 1954]

[Singapore — Magistrate's Appeal No. 73 of 1954]

Mercantile Law — Trade Marks Ordinance, 1938, s. 2 — Counterfeit — Whether date at which labels were made is material — Subsequent date of registration of label as trade mark.

The appellant was convicted of having in his possession goods bearing a counterfeit trade mark. His only defence was that the offending labels used by him were not counterfeit as such labels were made long before the registration of the complainants' mark. S. 2 of the Trade Marks Ordinance, 1938, states that in order to counterfeit a trade mark there must be a trade mark in existence which is a registered mark.

Held: a label which is not counterfeit when made cannot become counterfeit through the subsequent registration of a trade mark by someone else.

MAGISTRATE'S APPEAL.

M. W. Maxwell for the appellant.

Lee Kuan Yew for the respondent.

Cur. Adv. Vult.

Murray-Aynsley, C.J. : — In this case the appellant was convicted of having in his possession on 3rd December 1952 goods bearing a counterfeit trade mark.

It was proved that on that date the appellant was attempting to export tins of pineapple bearing a label which was a colourable imitation of a label used by the complainants and which had been registered as a trade mark since April 1, 1947. The labels used by the appellant bore the name of Sin Heng & Co., a firm which went bankrupt, it seems, in 1941. The only defence of the appellant was that the labels were not counterfeit within the meaning of section 12 of Cap. 157. For a definition of "counterfeit" one must look to section 10 which deals with the offence of counterfeiting. To counterfeit a trade mark there must be a trade mark in existence which by section 2 means (since the passing of the Trade Marks Ordinance No. 38 of 1938) a registered mark. Section 12 imposes penalties for using counterfeit marks as defined in section 10. By section 10 a counterfeit mark must be "so made" i.e. in imitation of a registered mark. The appellant contended that as a matter of of fact the offending labels were made before the registration of the complainants' mark in 1947. The appellant said that in September 1947 he purchased the labels in question from one Tan Kwong Soon who had been one of the partners in the bankrupt firm of Sin Heng. This Tan Kwong Soon was not called but the Court was invited to infer that this label was one of those which belonged to the bankrupt firm in 1941. The learned District Judge considered the date at which a label is made to be immaterial. I do not agree with this. I do not think that a label which is not counterfeit when made can become counterfeit through the subsequent registration of a trade mark by